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असाधारण

EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 14th February, 1967/Magha 25, 1888 (Saka)

The following President's Acts are published for general information:—

THE KERALA COURT OF WARDS ACT, 1967

No. 3 of 1967

Enacted by the President in the Eighteenth Year of the Republic of India.

An Act to consolidate and amend the law relating to Court of Wards.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965, the President is pleased to enact as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Kerala Court of Wards Act, 1967.

Short title
extent and
commence-
ment.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

Act not to
affect power
of High
Court over
infants,
idiots and
lunatics.

2. Nothing in this Act shall be construed to affect or in any way to derogate from any power possessed by the High Court of Kerala over the persons and estates of infants, idiots and lunatics.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Collector" means the chief officer in charge of the revenue administration of a district and includes an acting or officiating Collector and also any officer appointed by the Government to exercise the functions of a Collector under this Act;

(b) "court" means the Court of Wards;

(c) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, has not attained majority; 9 of 1875.

(d) "proprietor" means a person who owns or has a life-interest in land either solely or as a co-sharer;

(e) "ward" means a person who has been made a ward of the court under section 18.

CHAPTER II

THE COURT OF WARDS

Court of
Wards.

4. The Board of Revenue shall be the Court of Wards for the entire State of Kerala and, for the purposes of this Act, Collectors shall be subject to the control of the court.

Control of
Government.

5. The court shall be subject to the control of the Government and the Government may, if they think fit, revise, modify or reverse any order passed or proceedings taken under this Act, whether a petition is presented against such order or proceedings or not.

Power of
court to
regulate
procedure.

6. (1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, it shall be lawful for the Board of Revenue, subject to the approval of the Government, to declare what portion of the business of the court may be disposed of by a single member of the Board and what portion shall be reserved for the decision of the full Board. Every such declaration shall, after approval by the Government, be notified in the Gazette.

(2) All orders made and decisions passed by one member of the Board or by the full Board in accordance with a declaration made under sub-section (1) shall be held to be the orders and decisions of the court, and the same shall not be deemed to be invalid by reason that subsequent thereto the said declaration was disapproved by the Government. Where there is a difference of opinion between the members of the Board sitting as the court on any point, the decision of the majority shall prevail and, when there is no majority, the point in difference shall be referred to the Government whose decision thereon shall be deemed to be the decision of the court on the point.

(3) It shall in all cases be lawful for the officer appointed by the Government as Secretary to the court to sign on behalf of the court.

7. The court may exercise all or any of the powers conferred on it by this Act through the Collectors in whose districts any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred. Power of court how exercised.

CHAPTER III

ASSUMPTION OF SUPERINTENDENCE OF PERSONS AND PROPERTY

8. The following proprietors shall be deemed to be disqualified for the management of their property:— Disqualification.

(a) minors;

(b) proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property;

(c) proprietors declared by the Government to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property.

9. Whenever a Collector receives information that a proprietor of land situated in his district has died, and he has reason to believe that the heir of such proprietor is, or should be declared to be, disqualified under section 8,— Immediate protection of disqualified heirs.

(a) he may take such steps and make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to the heir;

(b) if the heir be a minor, he may direct that the person, if any, having custody of the minor, shall produce him or cause

him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor, as he thinks proper:

Provided that female minors, who ought not to be compelled to appear in public, shall be produced in accordance with the manners and customs applicable to them.

**Recovery of
expenditure.**

10. All expenses incurred by a Collector, acting under section 9, shall, whether the property is afterwards taken under the superintendence of the court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as arrears of land revenue.

**Report by
Collector.**

11. Whenever any Collector, after making such inquiry as he deems necessary, has reason to believe that any proprietor in his district is, or should be declared to be, disqualified under section 8, he shall submit a report to the court setting forth all the circumstances of the case:

Provided that the said property is of such value that its economic management by the court is practicable:

Provided further that the court or the Government may call for a report on any case if in its or their opinion it is necessary to do so.

**Proprietor
to be given
opportunity
to be heard
and to
adduce
evidence.**

12. (1) Before reporting to the court under section 11 that a proprietor ought to be declared to be disqualified under clause (c) of section 8, the Collector shall give notice to such proprietor and afford him a reasonable opportunity to be heard and to adduce evidence.

(2) All questions as to whether the provisions of this section have been complied with shall be decided finally by the Government.

**Report by
court.**

13. The court shall consider the Collector's report and, except in the case of female proprietors, not being minors, whom it decides to leave in charge of their property, shall report the case to the Government with its recommendation and pending the receipt of orders, shall have power to take such steps, as it may deem necessary, for the protection of the person and property of the proprietor in question.

14. The Government, on receipt of the court's recommendation, may, in any case falling under clause (c) of section 8, declare the proprietor to be disqualified, and, in every case falling under section 8, may order the court to assume the superintendence of the person or property of the proprietor or of both.

Government may declare proprietor disqualified and direct court to assume superintendence.

15. The Government shall not declare any proprietor to be disqualified under clause (c) of section 8, unless satisfied that it is expedient in the public interest that the property should be managed by the court, and a statement to that effect shall be inserted in the declaration made by the Government under section 14.

Proprietor not to be declared disqualified under section 8 (c) unless on ground of public interest.

16. (1) The Government shall not, except under section 17, order the court to take the property of any undivided Hindu family, Marumakkathayam tarwad, Aliyasantana family or Nambudiri family under its superintendence, unless all the coparceners, members of the tarwad or members of the family, as the case may be, are, or are declared to be, disqualified under section 8.

Provision to meet cases of undivided Hindu family. Marumakkathayam tarward, etc.

(2) When two or more proprietors are co-sharers, otherwise than as coparceners in an undivided Hindu family or as members of a Marumakkathayam tarwad, Aliyasantana family or Nambudiri family, as the case may be, and one of such co-sharers is, or is declared to be, disqualified under section 8, the Government may order the court to institute a suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition.

17. (1) A proprietor may apply to the Government to have his property placed under the superintendence of the court, and the Government may, on being satisfied that it is expedient in the public interest that such property should be managed by the court, and that the said property is of such value that its economic management by the court is practicable, make a declaration to that effect and order the court to assume the superintendence of such property.

Application by proprietor himself.

(2) In the case of any undivided Hindu family, Marumakkathayam tarwad, Aliyasantana family or Nambudiri family, an application signed by a majority of the coparceners or a majority of the members of such tarwad or family, as the case may be, shall, for the purposes of sub-section (1), be deemed to be an application by a proprietor in respect of the whole of the property of the family or tarwad.

Explanation.—Nothing in this section shall be deemed to prevent any coparcener or member of such tarwad or family not signing such application from obtaining partition of his share, whether by suit or otherwise.

Notification
of assump-
tion of
superinten-
dence.

18. (1) Whenever under section 14 or section 17 the Government order the court to take under its superintendence the person or property of a proprietor or both, such order of the Government, together with any declaration made under section 14 or section 17, as the case may be, shall be notified in the Gazette. The notification shall specify the Collector who shall discharge the duties imposed upon a Collector by this Act in respect of such person or property or both, as the case may be.

(2) Such proprietor shall be deemed to have become a ward under the court from the date of the said order of the Government; and the superintendence of his person or property or of both shall take effect from the said date, and, as to property, shall extend to all movable and immovable property belonging to him at the date of the order, and to which he shall afterwards become in any way entitled while he continues under such superintendence:

Provided that it shall be in the discretion of the court to assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of the order of the Government under section 14 or section 17.

CHAPTER IV

MANAGEMENT AND GUARDIANSHIP

Collector to
take charge
of ward's
property.

19. When the court has assumed the superintendence of the property of a ward, the Collector specified in the notification under section 18 or, if so directed by the court, the Collector of the district in which any part of the property is situated, shall take possession and custody of such property on behalf of the court.

Powers of
Collector.

20. It shall be lawful for the Collector referred to in section 19—

(a) to order any person in possession of any movable property to the possession of which the ward is entitled or of any accounts or papers relating to the property of such ward, to deliver up such movable property, accounts or papers;

(b) in case there is reason to believe that any movable property to the possession of which the ward is entitled or any ac-

counts or papers relating to the property of the ward are to be found in any room, box or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorise the same to be broken open for the purpose of searching for such property, accounts or papers;

(c) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title, to attend before him for examination and to defray the necessary expenses of any person so attending out of the assets of the estate;

(d) to order all holders of tenures and under-tenures on the ward's property to produce their titles before him.

21. The court may determine what sums shall be allowed for the expenses of the ward and of his family and dependents and of those who are entitled to be maintained out of the property taken possession of on behalf of the court.

Allowances
for ward
and family.

22. The court may make such orders and arrangements as it may deem fit, in respect of the custody, residence, education and marriage—

Custody,
residence,
education
and marriage
of ward
or minor
relatives.

(a) of any ward whose person is for the time being under its superintendence;

(b) of any minor child, minor brother or minor sister of such ward, or such other minor or incapacitated person who, in the opinion of the court, is entitled to maintenance at the charge of the ward's estate.

23. (1) The Court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed:

Appoint-
ment, etc.,
of man-
agers and
guardians.

Provided that the court shall not appoint a guardian for any person who has become a ward in pursuance of an order under section 17.

(2) Any appointment made under this section shall terminate when the court ceases to exercise superintendence over the person for whom a guardian, or over property for which a manager, has been appointed.

Collector to
act if there
are no
managers or
guardians.

24. If no manager of the property or guardian of the person of a ward is appointed by the court, or the office is temporarily vacant, the Collector specified in the notification under section 18, or any other Collector whom the court may appoint in this behalf, shall be competent, under the control of the Court, to do anything that might be done by such manager or guardian.

Who may
and may
not be
guardians.

25. (1) No person being the next legal heir of a ward, or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed guardian of such ward :

Provided that the mother of a ward, or any person appointed guardian by the will of a person authorised to make such appointment, may be appointed guardian by the court at its discretion.

(2) A female guardian shall be appointed for a female ward, and a male guardian for a male ward above seven years of age, unless, in any case, the court, for special reasons, shall direct otherwise :

Provided that no guardian shall ordinarily be appointed for a female ward, if she has an adult husband.

Duties of
guardians.

26. A guardian appointed under section 23 shall be charged with the custody of the ward, and, subject to the control of the court, shall make suitable provision for his maintenance and health, and if he be a minor, for his education, and for such other matters as are required by the personal law to which the ward is subject, and shall—

(a) give such security (if any), as the court thinks fit, for the due performance of his duty;

(b) submit such accounts as the court may direct;

(c) pay the balance due from him thereon;

(d) continue liable to account to the court after he has ceased to be guardian for his receipts and disbursements during the period of his guardianship;

(e) apply for the sanction of the court to any act which may involve expense, not previously sanctioned by the court;

(f) be paid such allowance out of the property of the ward as the court thinks fit.

Powers of
manager.

27. Every manager appointed by the court shall have power, subject to the control of the court, to collect the rents of land placed

under his charge, as well as all other moneys due to the ward, and to grant receipts therefor, and may, under the orders of the court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as he may be generally or specially authorised by the court to do for the good management of the property.

28. (1) Every manager appointed by the court shall manage the property placed under his charge diligently and faithfully and shall— Duties of manager.

(a) give such security, with such sureties, if any, as the court thinks fit, for the due discharge of the trusts of his office and for the due account of all property and moneys which come into his control or possession by reason of his office;

(b) keep such accounts in such form and submit them at such times as the court may direct;

(c) deal with all moneys received by him in such manner as the court may direct;

(d) obtain the sanction of the court to any act which may involve the property in expense not previously sanctioned by the court;

(e) be responsible for any loss occasioned to the property under his management by his negligence or wilful default; and every such loss shall be recoverable from him and from his sureties, if any, as an arrear of land revenue;

(f) continue liable to account to the court after he has ceased to be manager for his receipts and disbursements during the period of his managership.

(2) The manager shall be paid such allowance out of the property of the ward as the court thinks fit.

45 of 1860. 29. Every guardian, manager, or other servant of the court shall be deemed to be a public servant within the meaning of sections 161, 162, 163, 164, 165 and 165A of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include the court. Employees of court deemed to be public servants.

Kerala Act 37 of 1963. 30. Every manager or other servant of the court entrusted with the receipt, custody or control of moneys or securities for money on behalf of the court or with the management of any property under its superintendence shall be deemed to be a public accountant with- Manager and other servants to be deemed to be public accountants. in the meaning of the Kerala Public Accountants Act, 1963.

Regulation
of expendi-
ture.

31. Unless the court otherwise directs, all moneys received by, or on behalf of, the court on account of the property of any ward shall be employed in meeting the charges included in Class I hereinafter specified, before such moneys are employed in meeting the charges in Classes II and III hereinafter specified and in meeting the charges in Class II before they are employed in meeting those in Class III.

Class I

Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family and of those in respect of whom such charges have to be paid out of the property of the ward.

Charges necessary for the management and supervision of the property of the ward.

Charges on account of Government revenue and of all cesses and other public demands due in respect of such property, or any part of such property.

Class II

Charges on account of rent, cesses or demands due to any superior landholder in respect of any land held on behalf of the ward.

The liquidation of debts payable by the ward out of the property taken charge of by the court.

Expenses necessary to protect the interests of the ward in the civil courts or otherwise.

The maintenance in efficient condition of the estates, buildings and other immovable property and the suitable upkeep of the furniture, equipage, livestock and other movable property belonging to the ward.

Class III

The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances and of such donations befitting the position of the ward's family, as the court may authorise to be paid.

The prevention and relief of distress among the ward's tenantry.

The improvement of the land and property of the ward and the benefit of the ward and his property generally.

32. Any surplus which remains after providing, so far as the court deems fit, for the objects mentioned in section 31, shall be applied in the purchase of other landed property, or invested at interest on the security of—

Surplus how
to be dealt
with.

(a) promissory notes, debentures, stock and other securities of the Government of India or of the Government of Kerala;

(b) stock, or debentures of, or shares in, companies, the interest whereon has been guaranteed by the Government of India;

(c) debentures or other securities for money issued by, or on behalf of, any local authority under the authority of any Act of the Legislature of any State;

(d) such other securities, stock or shares guaranteed by the Government of Kerala or the Government of India as the court shall deem fit; or

(e) first mortgages of immovable property situate in the State of Kerala, provided that the property is not a leasehold for a term of years and that the value of the property exceeds by one-third or, if consisting of buildings, exceeds by one-half, the mortgage money.

33. (1) A ward shall not be competent—

Disabilities
of wards.

(a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the court, or to enter into any contract or to make any acknowledgment involving him in pecuniary liability personally or in respect of such property; but nothing in this clause or in section 22 shall be deemed to affect the capacity of a ward to enter into a contract of marriage:

Provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances the court may, in writing, declare to be reasonable;

(b) to grant valid receipts for the rents and profits arising or accruing from such property or for debts or other moneys due to the estate;

(c) to adopt or to give a written or verbal permission to adopt, without the consent of the court;

(d) to dispose of his property by will without the consent of the court:

Provided first that the court shall not withhold its consent under clause (c) or clause (d) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation:

Provided secondly that the court may confirm a will or an adoption made, or a permission to adopt given, without its previous consent:

Provided thirdly that the provisions of clauses (c) and (d) shall not apply to any proprietor in regard to whose property a declaration has been made under section 17.

(2) No claim under section 68 of the Indian Contract Act, 1872, 9 of 1872, shall be enforceable against the property of a ward which is under the superintendence of the court; but the court may, in its discretion, satisfy in whole or in part, any such claim.

Powers of court as to property under its superintendence.

34. The court may mortgage or sell the whole or any part of any property under its superintendence and may give leases of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act for the time being in force as it may judge to be for the advantage of the ward or for the benefit of the property.

Establishments and distribution of charges.

35. The court may order such establishments to be employed and charges to be incurred as it shall consider requisite for the care and management of the persons and properties under its superintendence and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed amongst the said properties in such proportions as it deems fit.

CHAPTER V

ASCERTAINMENT AND SETTLEMENT OF DEBTS

Notice calling upon claimants to notify claims.

36. (1) On the publication of a notification under section 18, the Collector therein specified may, at any time, with the previous sanction of the Government, publish in the Gazette a notice in English and in Malayalam or in such regional language as he may consider necessary calling upon all persons having pecuniary claims, whether immediately enforceable or not against the ward or his property, to

notify the same in writing to the Collector within six months from the date of such notification.

(2) The notice shall also be published at such places and in such other manner as the court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed.

(3) The Government may at any stage of the proceedings under this section and sections 37 and 39 invest any person either by name or by virtue of his office with the powers of a Collector for any or all of the purposes of these sections.

Explanation.—A claim shall be deemed to be pecuniary for the purposes of this section and sections 37 and 40 notwithstanding that a suit for its enforcement or a reference of such claim to arbitration is pending or that a decree or award has been passed establishing the same.

37. (1) Every such claimant shall, within the period prescribed by section 36, notify to the Collector in writing his claim with full particulars thereof :

Claimants to furnish full particulars and documents.

Provided that any claim presented after the expiration of such period and within a further period of six months may be admitted if the claimant satisfies the Collector that he had sufficient cause for not notifying the claim at an earlier date.

(2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he founds his claim shall be produced before the Collector with the statement of claim or within such time after the preferring of the claim as may be allowed by the Collector in that behalf:

Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and a certificate from the court which passed or is executing the same declaring the

amount recoverable thereunder or a true copy of the award and a statement of the sum recoverable thereunder, as the case may be; and if the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration, as the case may be.

(3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to his claim, other than the documents, if any, produced under sub-section (2), as the Collector may consider necessary.

(4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompanied by a true copy thereof. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Pecuniary
claim of
Government
etc., not
affected.

38. Nothing contained in sections 36 and 37 shall apply to any pecuniary claim of the Government or any local authority, or to claims for maintenance or for wages or salaries due to servants.

Claims
admitted
and dis-
allowed.

39. The Collector shall, after making such inquiry as he may deem fit, decide which claims notified or admitted under section 37 are to be allowed in whole or in part, and which are to be disallowed, and, on his decision being confirmed by the court, shall give written notice of the same to the claimants:

Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim, whether such claim be allowed or disallowed by the Court of Wards in whole or in part.

Claims not
notified
cease to
carry
interest, etc.

40. Every pecuniary claim against the ward or his property which has not been duly notified to, or admitted by, the Collector under section 37 shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by section 36, and shall not be paid until

after the discharge or satisfaction of the claims notified or admitted under section 37.

41. No document in the possession or under the control of the claimant which should have been but has not been produced in accordance with the requirements of section 37, shall be admissible in evidence against the ward or his representative in any suit brought by or against the claimant, or any person claiming under him, unless it be proved to the satisfaction of the civil court that it was not within his power to produce such document before the Collector.

Inadmissibility in evidence of documents not produced.

42. (1) When any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the Government may, on being satisfied that it is expedient in the public interest that the estate should be preserved and such incumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the court to take possession thereof, the court shall, thereupon, by an order in writing, require such incumbrancer to deliver up possession of the same to the manager at the end of the then current financial year.

When mortgagee in possession may be dispossessed.

(2) If such incumbrancer refuses or neglects to obey such order, the Collector may, without resorting to a civil court, enter upon the property, and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(3) The dispossession of the incumbrancer under sub-sections (1) and (2) shall not deprive him of any right for the recovery of arrears of rent due to him at the date of his dispossession.

(4) If in the instrument of mortgage under which the incumbrancer is in possession of the property, no rate of interest is specified, the Collector shall, in cases where the mortgage debt has been notified to or admitted by him, offer to the incumbrancer the rate of interest which appears to him to be reasonable; and pass an order fixing the rate accordingly. Copy of the order shall be served upon the incumbrancer in the manner prescribed by the Code of Civil Procedure, 1908, for service of summons upon a defendant. If the incumbrancer is dissatisfied with the rate of interest so fixed, he may, within three months from the date of service upon him of such order, institute a suit against the ward in the District Court within whose jurisdiction the property mortgaged or any portion thereof is situate,

and the said court shall, if the mortgage debt has been notified or admitted as aforesaid, pass a declaratory decree fixing such rate of interest as it may deem reasonable. If no such suit be instituted within the said period, the incumbrancer shall be deemed to have agreed to the rate fixed by the Collector.

(5) If an incumbrancer is dispossessed of property under this section, he shall be entitled to recover the amount due to him under the instrument of mortgage on the date of such dispossession together with—

(a) interest as from that date, on the principal money outstanding on such date at the rate stipulated in the instrument of mortgage or, if there is no such stipulation, at the rate fixed under sub-section (4), and

(b) any amount to which he may, in case of dispossession, be entitled under the instrument of mortgage or under any law for the time being in force,

in the same manner as if—

(i) he were a simple mortgagee of such property under the said instrument, and

(ii) the entire money as computed above were advanced by way of loan under the said instrument:

Provided that the rights of the incumbrancer under this sub-section shall be subject to—

(a) the provisions of section 40; and

(b) the charges specified in Classes I and II in section 31, except those relating to the liquidation of debts payable by the ward and to the upkeep of the furniture, equipage, livestock and other movable property belonging to the ward.

(6) The Collector shall, as soon as conveniently may be after the expiration of the financial year commencing with the date of such dispossession and of every successive financial year, declare, subject to the approval of the court, the gross annual rents and profits realised from such property, the several heads of expenditure and the balance, and such declaration shall be conclusive evidence of the statements therein contained. A copy of such declaration shall be furnished to the dispossessed incumbrancer free of charge.

CHAPTER VI

SUITS

43. No suit shall be brought in any civil court against the Government, the Court of Wards or any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or intended to be done under the provisions thereof or the rules made thereunder.

Protection of
action taken
in good
faith.

44. (1) No suit relating to the person or property of any ward shall be instituted in any civil court until the expiration of two months after notice in writing has been delivered to or left at the office of the Collector specified in the notification under section 18.

Suit not to
be instituted
until after
notice to
Collector.

(2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit for the period of limitation for which will expire within three months from the date of the notification under section 18.

45. In all suits or proceedings in any civil or revenue court the ward shall sue and be sued in his own name and the manager of his property appointed under section 23 or, if there is no such manager, the officer competent to act as manager under section 24 shall represent him as next friend or guardian *ad litem*, as the case may be.

Suit or
proceeding
by or
against
ward.

46. If in any such suit or proceedings any civil or revenue court shall decree any costs against the manager or other officer competent to act as manager under section 24, the Court of Wards shall cause such costs to be paid out of any property of the ward, which, for the time being, may be in its hands.

Costs against
manager
how paid.

47. No suit shall be brought on behalf of any ward by the manager or other officer competent to act as manager under section 24, unless authorised by some particular or general order of the court:

Suits must
be autho-
rised by
court.

Provided that a manager or other officer as aforesaid may file a plaint in order to prevent the suit from being barred by the law of limitation, but such suit shall not be further proceeded with, until the consent of the court has been obtained.

Adjudication
of civil
disputes
between two
or more
wards,

48. (1) When any question arises as between two or more wards of such a nature that an adjudication upon it by a civil court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the civil court with regard to such matter under rule 1 of Order XXXVI in the First Schedule to the Code of Civil Procedure, 1908, to file in the civil court having jurisdiction a statement containing the point or points for determination.

(2) When such statement has been filed, the civil court shall appoint a guardian *ad litem* for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(3) The civil court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Order XXXVI in the First Schedule to the Code of Civil Procedure, 1908, for the hearing and disposal of cases stated for opinion under that Order.

CHAPTER VII

RELEASE OF PERSONS AND PROPERTY FROM SUPERINTENDENCE

Release
from super-
intendence;

49. The court may, with the previous sanction of the Government, in all cases where superintendence has been assumed in pursuance of orders under section 14, at any time release from its superintendence the person or property of a ward or both and shall, save as provided in section 52, release from superintendence—

(a) the person and property of a ward disqualified under clause (a) of section 8, as soon as he ceases to be a minor;

(b) the person and property of a ward disqualified under clause (b) of section 8, as soon as it is found by a competent civil court that the disability has ceased;

(c) the person and property of a proprietor declared to be disqualified under clause (c) of section 8, as soon as the Government revoke their declaration that such proprietor is disqualified;

(d) the property of an undivided Hindu family, Marumakkathayam tarwad, Aliyasantana family or Nambudiri family, and the person of every coparcener or member therein who is not possessed of separate estate, as soon as any coparcener or member, as the case may be, ceases to be disqualified under section 8.

50. (1) The court may, with the previous sanction of the Government, at any time within two years from the date of the notification published under section 18, release from its superintendence, on a day to be notified, the property of a person who has been made a ward of the court in pursuance of an order under section 17, without liquidating any of his debts and liabilities, or after liquidating some of the debts and liabilities, when the court is satisfied that it is impracticable to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated, and in either case the legal incapacity of such ward shall cease on the date so notified:

Release of estate taken under management under section 17 when debts cannot be liquidated within reasonable time

Provided that with the previous sanction of the Government, the court may at any time release such property on application made to it by the proprietor, or in the case of an undivided Hindu family, a Marumakkathayam tarwad, an Aliyasantana family or a Nambudiri family on such application made by a majority of the coparceners who have attained majority or of the major members of such tarwad or family, as the case may be.

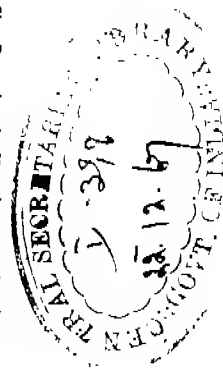
(2) Whenever an incumbrancer is dispossessed under section 42, and his debt remains unliquidated at the time the court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the incumbrancer in possession.

(3) Whenever the property of a person is released under sub-section (1) from the superintendence of the court, the provisions of sections 40 and 41 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his properties are so released.

(4) In computing the period of limitation applicable to a suit brought or application made against such person or his legal representative after the court has released his property under sub-section (1), the time during which the superintendence of the court continued shall be excluded.

51. The court may, with the previous sanction of the Government, replace any proprietor who has been made a ward of the court in pursuance of an order under section 17, in the management of his estate on a day to be notified, if the debts and liabilities binding on his estate have been discharged and the court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs, and his legal incapacity shall cease on such date.

When estate taken under management under section 17 may be made over to proprietor.



Option to retain superintendence in certain cases.

52. When a ward dies or ceases to be disqualified before the debts and liabilities binding on his estate have been discharged, the court may, with the previous sanction of the Government, retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the court shall not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid:

Provided that, after the death of the ward, the court shall not retain charge on account of any debt or liability which has been declared by a civil court not to be binding on the representatives of the deceased ward.

Disabilities of proprietor in such cases.

53. If the court retains the superintendence under section 52, the person who has succeeded to the property, or the person who has ceased to be disqualified, shall, in so far as the property in question is concerned, be deemed to be a ward of the court for the purposes of clauses (a) and (b) of sub-section (1) and sub-section (2) of section 33.

Appointment of guardian before release.

54. (1) When the court decides to release from its superintendence the person and property of a minor, it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section, the court shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890.

(4) Every such guardian shall have, and be subject to, the same rights, duties and liabilities, as if he had been appointed under the Guardians and Wards Act, 1890.

8 of 1890

Recovery of expenses after release.

55. Any expense incurred by the court on account of any property under its charge, and not defrayed from such property during the court's superintendence may, after the release of such property, be recovered as if it were an arrear of land revenue from any

person into whose possession such property or any part thereof may have passed:

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

56. Whenever, on the death of any ward, the succession to his property or any part thereof is disputed, the court may either direct that such property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until a claimant has established his title to the same in a competent civil court, or institute a suit of inter-pleader against all the claimants.

Procedure when succession to ward's property is disputed.

57. Whenever the court releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette.

Notification of release from superintendence.

CHAPTER VIII

MISCELLANEOUS

58. If a ward is the hereditary trustee or manager of a temple, mosque or other religious institution, establishment or endowment, the court may make such arrangements as it thinks fit for the discharge, during the wardship, of the ward's duties as trustee or manager, provided that for the direct and personal management of the religious affairs of any such institution, establishment or endowment, the court shall appoint suitable persons other than servants of the Government and that the court shall as far as possible restrict its superintendence to the preservation of the property belonging to the institution, establishment or endowment.

Power of court in regard to religious endowments of which ward is hereditary trustee or manager.

59. In holding any inquiry under this Act, the Collector or other person authorised to hold such inquiry shall have all the powers conferred on revenue officers by the Kerala Enquiries and Summons Act, 1960.

Powers of persons holding inquiries.

Kerala Act
24 of 1960.

60. No immovable property under the superintendence of the court shall be liable to sale on account of arrears of land revenue accruing while such estate is under the superintendence of the court:

Property under charge of court not liable to sale for arrears.

Provided that all such arrears of land revenue shall be the first charge upon the sale proceeds of any such property which may be sold for any other cause than for arrears of land revenue.

Power to
Make rules.

61. The court may, with the previous sanction of the Government, make rules consistent with this Act—

(a) regulating the management of property under the superintendence of the court, and

(b) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

CHAPTER IX

PENALTIES

Abetting
unsanctioned
marriage of
wards, etc.

62. Whoever, without the previous consent of the court, abets the marriage of any of the persons specified in clauses (a) and (b) of section 22 shall be liable, on conviction before a court of session, to a fine not exceeding two thousand rupees, or to imprisonment for a term not exceeding six months, or to both.

CHAPTER X

REPEAL

Repeal.

63. The Madras Court of Wards Act, 1902 (except in so far as it relates to estates of Rulers of Indian States), as in force in the Mad. Act. I of 1902. Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, the Cochin Court of Wards Act, 37 of 1956. XIII of 1097 and the Travancore Court of Wards Act, 1110, are hereby repealed. Travancore Act V of 1110.

S. RADHAKRISHNAN,
President.

S. P. SEN-VARMA,
Secy. to the Govt. of India.

Reasons for the enactment

In the Travancore, Cochin and Malabar areas of the State of Kerala, there are now separate laws relating to the Court of Wards, namely, the Travancore Court of Wards Act, 1110, the Cochin Court of Wards Act XIII of 1097 and the Madras Court of Wards Act, 1902 (Madras Act 1 of 1902), respectively. It is considered necessary to enact a uniform law on the subject applicable throughout the State of Kerala. The present enactment is intended for this purpose.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislative (Delegation of Powers) Act, 1965 (12 of 1965), has approved the enactment of this measure as a President's Act.

B. SIVARAMAN,

*Secy. to the Govt. of India.
Department of Agriculture.*

THE KERALA PREVENTION AND CONTROL OF ANIMAL DISEASES ACT, 1967

NO. 4 OF 1967

Enacted by the President in the Eighteenth Year of the
Republic of India.

An Act to consolidate and amend the law relating to the
prevention and control of diseases affecting animals.

In exercise of the powers conferred by section 3 of the Kerala
12 of 1965. State Legislature (Delegation of Powers) Act, 1965, the President is
pleased to enact as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Kerala Prevention and Control
of Animal Diseases Act, 1967.

Short
title, ex-
tent and
commen-
cement.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may,
by notification in the Gazette, appoint, and different dates may be
appointed for different areas and for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

(a) “animal” means any domestic animal or bird or any
animal or bird kept in confinement;

Defini-
tions.

- (b) "disinfect" means to free from disease germs;
- (c) "disinfest" means to free from vermins, lice, fleas, flies, mosquitoes and the like;
- (d) "export" means taking out of the State to a place outside the State;
- (e) "import" means bringing into the State from a place outside the State;
- (f) "infected area" means any area declared as infected area by the Director of Animal Husbandry under section 17;
- (g) "infected place" means any place declared as infected place under section 14 or section 15 or section 16;
- (h) "infective animal" means any animal which is affected with a Scheduled disease or has recently been in contact with or in close proximity to an animal so affected;
- (i) "Inspector" means an Inspector appointed under section 3;
- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "Scheduled disease" means any disease specified in the Schedule;
- (l) "State" means the State of Kerala;
- (m) "Veterinary Surgeon" means a Veterinary Surgeon appointed under section 3.

Veterinary
Surgeons and
Inspectors.

3. (1) The Government may appoint such number of persons as they think fit possessing such qualifications as may be prescribed, to be Veterinary Surgeons for the purposes of this Act and may define the area within which each of them shall exercise the powers and perform the duties of a Veterinary Surgeon under this Act.

(2) The Government may appoint such number of persons as they think fit possessing such qualifications as may be prescribed, to be Inspectors for the purposes of this Act and may define the area within which each of them shall exercise the powers and perform the duties of an Inspector under this Act.

(3) A Veterinary Surgeon shall have all the powers of an Inspector under this Act and may exercise such powers within the area of his jurisdiction,

(4) Subject to such rules as may be made in this behalf, an Inspector may, with such assistance as he may call for, enter at all reasonable times and inspect any land, building or other place or any vessel or vehicle, for the purpose of exercising the powers or performing the duties conferred or imposed on him by or under this Act.

45 of 1860. 4. Every person appointed under section 3 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Veterinary Surgeons and Inspectors to be public servants

CHAPTER II

CONTROL OF DISEASE

9 of 1893. 5. (1) Notwithstanding anything contained in the Livestock Importation Act, 1898, the Government, for the purpose of preventing the outbreak or spread of any scheduled disease, may, by notification in the Gazette,—

Power to prohibit or regulate import, export or transport of animals and the holding of markets, fairs, etc.

(a) prohibit or regulate in such manner and to such extent as they may think fit—

(i) the import, export or transport into, from or across the State, or any specified place therein, of any animal, alive or dead, or of any part of an animal or of any kind of fodder, bedding or other things, which may, in their opinion, carry infection;

(ii) the holding of animal markets, animal fairs, animal exhibitions or other concentration of animals in any specified area; and

(iii) the sale of, or other traffic in, infective animals, alive or dead, or their products or any parts of animals which at the time of their death were infective or any fodder, bedding or other things used in connection with such animals which may, in their opinion, carry infection;

(b) direct that in any area to be specified in the notification, all animals shall be compulsorily inoculated and marked in accordance with such rules as may be made in this behalf.

(2) The Government may, by notification in the Gazette, specify the season or seasons during which and the route or routes by which animals may be imported into the State; and no person shall import animals into the State except during the season or seasons and by the route or routes so specified.

(3) The Government may establish quarantine stations along the route or routes specified under sub-section (2) for the inspection and detention of the animals imported into the State.

(4) The period of detention of animals at a quarantine station for the purpose of inspection, vaccination where the animals are required to be vaccinated, marking and issuing of permits for the release of the animals may be such as may be prescribed.

(5) The animals detained at a quarantine station shall continue to be under the care of the person who was in charge of such animals immediately before the detention; and such person shall be responsible for their feeding and upkeep and for the payment of such fee for their vaccination and marking as may be prescribed.

Cleansing, disinfecting and disinfection of vessels and vehicles.

6. (1) Every vessel or vehicle used by a common carrier for the transport of animals shall be cleansed, disinfested and disinfected periodically by such common carrier in such manner as may be prescribed.

(2) The Government may appoint places where an Inspector may detain and inspect any such vessel or vehicle and if it is not in a sanitary condition, require it to be cleansed, disinfested and disinfected in such manner as may be prescribed and within such time as the Inspector may appoint.

(3) If such vessel or vehicle is not so cleansed, disinfested and disinfected in the manner prescribed and within the time appointed, the Inspector may cause it to be cleansed, disinfested and disinfected at the expense of its owner.

Duty of certain persons to report Scheduled diseases.

7. Every owner or person in charge of, every person importing, and every veterinary practitioner who has been called to treat, an animal which he has reason to believe to be infected with a Scheduled disease shall forthwith report the fact to the Inspector having jurisdiction in the area.

Powers of Veterinary Surgeons to hold post-mortem examination.

8. Subject to such rules as may be made by the Government in this behalf, the Veterinary Surgeon may make, or cause to be made, a post-mortem examination of any animal which at the time of its death was infective or is suspected to have been then infective, and for this purpose, he may cause the carcass of any such animal to be exhumed.

Power to isolate infective animals.

9. (1) Where an Inspector has reason to believe that any animal is infective, he may, by order in writing, direct the owner or person in charge of such animal to keep it where it is for the time being

or to remove it or allow it to be removed to such place of isolation or segregation and within such period as may be specified in the order:

Provided that where there is no person in charge of the animal and the owner is unknown or the order cannot be communicated to the owner without undue delay or the person in charge of the animal refuses to carry out the order, the Inspector may seize the animal and remove it to a place of isolation or segregation.

(2) The Inspector shall forthwith report every order or seizure under this section to the Veterinary Surgeon.

10. On receipt of a report under sub-section (2) of section 9, the Veterinary Surgeon shall as soon as possible examine the animal and may also examine all animals with which it has been in contact or in close proximity and for this purpose may subject any such animal to any test which the Government may prescribe in this behalf.

Examination by the Veterinary Surgeon

11. If, after such examination, the Veterinary Surgeon—

(a) is of opinion that the animal is not infective, the Inspector shall forthwith return it to the person who, in his opinion, is entitled to its possession:

Action after examination by the Veterinary Surgeon.

Provided that where such person cannot without undue inconvenience be found, the Inspector shall send the animal to the nearest cattle-pound or deal with it in such other manner as may be prescribed;

(b) certifies in writing that the animal is infective though not affected with a Scheduled disease, the animal shall be dealt with in such manner as may be prescribed;

(c) certifies in writing that the animal is infective having been affected with a Scheduled disease, the animal shall be destroyed or dealt with in such other manner as may be prescribed.

12. Compensation shall be paid to the owner of an animal destroyed under section 11, and such compensation shall be determined in accordance with the rules to be made by the Government in this behalf:

Compensation for animals destroyed.

Provided that no compensation shall be payable—

(i) to any person convicted of any offence punishable under this Act, committed in respect of such animal; or

(ii) in respect of any animal which, when it was brought into the State, was infected with disease on account of which it was destroyed.

Power to require disinfection of infected premises, vessels or vehicles.

13. (1) Subject to any rules made by the Government in this behalf, the Veterinary Surgeon may, by order in writing, require the owner, occupier or person in charge of any building, yard, vessel or vehicle in which there has been an infective animal or material, to have such building, yard, vessel or vehicle disinfected, and the internal fittings thereof and other things found therein or near thereto to be disinfected or destroyed, in such manner and to such extent as may be specified in the order.

(2) Subject as aforesaid, if such owner, occupier or person fails to comply with the requirements of such order within a reasonable time, the Inspector may cause such building, yard, vessel or vehicle to be disinfected and such internal fittings and other things to be disinfected or destroyed, at the expense of the owner.

Declaration of private infected places.

14. (1) If the Inspector has reason to believe that there is an infective animal in any field, yard or building in which animals are kept, temporarily or otherwise, he shall at once, by order in writing, declare the place to be an infected place, and shall deliver a copy of the order to the owner, occupier or person in charge of the place and report his action to the Veterinary Surgeon.

(2) The provisions of sub-section (1) shall not apply to any place owned by, or under the control or management of, any local authority or railway administration, where animals are temporarily kept for sale or exhibition or transit.

Examination of infected place by Veterinary Surgeon.

15. (1) On receipt of the report under section 14, the Veterinary Surgeon shall, as soon as possible, examine the infected place and the animals kept therein and may confirm or cancel the order of the Inspector.

(2) If the Veterinary Surgeon confirms the order, he may cause notice to be served on the owners, occupiers or persons in charge of all places in which animals are kept, temporarily or otherwise, within a radius not exceeding one mile from the infected place, declaring such places to be infected places and shall forthwith report his action under this sub-section to the Director of Animal Husbandry.

(3) If the Veterinary Surgeon cancels the order passed by the Inspector, the place specified in such order shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

16. (1) Where the Veterinary Surgeon has reason to believe that infective animals are or have been kept in any place owned, controlled or managed by any local authority or railway administration and in which animals are temporarily kept for purposes of sale, exhibition or transit, he may, by order in writing, declare such place to be an infected.

Declaration of infected places of a public character.

(2) The Veterinary Surgeon shall cause a copy of such order prepared in the language of the locality to be exhibited prominently in the infected place, and he shall deliver copies at the office of such local authority or to the nearest station master of such railway administration, as the case may be, and shall also send a copy to the nearest police station and shall report his action forthwith to the Director of Animal Husbandry.

17. (1) On receipt of the report of the Veterinary Surgeon under sub-section (2) of section 15 or under sub-section (2) of section 16 and after such further enquiry, if any, as he may think fit, the Director of Animal Husbandry may—

Declaration of infected areas by the Director of Animal Husbandry.

(a) confirm any declaration made under section 15 or section 16 with or without modification; or

(b) cancel any such declaration.

(2) Where the Director of Animal Husbandry confirms such declaration, either with or without modification, he shall, by notification in the Gazette defining the limits of the area to which the notification shall apply, declare such area to be an infected area.

(3) Where the Director of Animal Husbandry cancels such declaration, the Inspector shall give notice of the cancellation to all persons to whom copies of such declaration were delivered or on whom notices of such declaration were served.

(4) On the issue of a notification under sub-section (2), any place declared by the Inspector or the Veterinary Surgeon to be an infected place and not included in the infected area so defined shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

(5) (a) The Inspector shall cause to be exhibited, in the language of the locality, a copy of the notification under sub-section (2)—

(i) in the office of the Panchayat, Township or the Municipal Council or Corporation, as the case may be, within the jurisdiction of which the infected area is situate;

(ii) in the office of the National Extension Block, if any, within the jurisdiction of which the infected area is situate; and

(iii) in such other prominent places in the infected area as the Inspector may think fit.

(b) The Inspector shall also cause to be so exhibited a copy of any subsequent notification adding to, amending, varying or rescinding such notification.

Removal of animals and things from infected areas or places.

18. (1) No person shall remove from any infected area or place, any animal, dead or alive, or any part of an animal, or any fodder, bedding or other thing used in connection with animals, save in accordance with the conditions of a licence granted by the Inspector.

(2) Nothing in this section shall prevent the transit by railway, through an infected area or place, of any animal or thing:

Provided that where any animal or thing mentioned in sub-section (1) while in transit through an infected area or place is unloaded therein, it shall not be removed therefrom save in accordance with the provisions of sub-section (1).

Power to require return of animals or things to infected area or place.

19. Where any animal or thing is removed from an infected area or place otherwise than in accordance with a licence granted under section 18, any Inspector may require the owner or person in charge of such animal or thing to return it to such area or place and, if such owner or person fails to do so within a reasonable time, may cause it to be so returned at the expense of the owner without further delay:

Provided that nothing in this section shall affect the powers of an Inspector under section 9 to deal with infective animals.

Time for complying with notice, requisition or order.

20. Where by any notice, requisition or order under this Act or under any notification or rule issued or made thereunder, any person is required to take any measures or to do anything in respect of any property owned or occupied by him or in his charge, a reasonable time shall be specified in such notice, requisition or order within which such measures shall be taken or such thing shall be done, as the case may be.

Recovery of expenses incurred under this Chapter.

21. Where any action is required to be taken under this Chapter in respect of any property, place, animal or thing at the expense of the owner or person in charge thereof, the officer taking such action may frame a certificate stating the amount of the expenses incurred and the person from whom such amount is recoverable, and any Magistrate to whom such certificate is presented may, after such inquiry as he may think fit and after giving an opportunity to the

person concerned to be heard, recover such amount as if it were a fine imposed by the Magistrate on such person.

CHAPTER III

PENALTIES AND PROCEDURE

22. Whoever—

Penalties
for con-
traven-
tion of
provi-
sions of
the Act
and
rules.

(a) imports, exports or transports into or from any part of the State any animal, alive or dead, or any part of an animal or any fodder, bedding or other thing in contravention of a notification issued under sub-clause (i) of clause (a) of sub-section (1) of section 5; or

(b) holds any market, fair, exhibition or other concentration of animals in contravention of a notification issued under sub-clause (ii) of clause (a) of sub-section (1) of section 5; or

(c) sells, or otherwise traffics in, an infective animal or its products or any part of such animal or the carcass of an animal which at the time of its death was infective, or any fodder, bedding or other thing used in connection with such animals, in contravention of sub-clause (iii) of clause (a) of sub-section (1) of section 5; or

(d) fails to comply with a direction issued under clause (b) of sub-section (1) of section 5; or

(e) imports animals in contravention of sub-section (2) of section 5; or

(f) being a common carrier, fails to cleanse, disinfest or disinfect any vessel or vehicle used for the transport of animals as required under sub-section (1) or sub-section (2) of section 6; or

(g) fails, in contravention of section 7, to report to the Inspector; or

(h) fails to comply with an order made by an Inspector under sub-section (1) of section 9; or

(i) fails to comply with an order made by the Veterinary Surgeon under sub-section (1) of section 13; or

(j) removes any animal or thing from any infected area or place in contravention of section 18,

shall be punishable with fine which may extend, in the case of a first conviction, to one hundred rupees, and, in the case of a second or subsequent conviction, to two hundred rupees.

Penalty
for keep-
ing or-
graz-
ing infec-
tive ani-
mal in un-
enclosed
land.

23. Whoever keeps or grazes in or on any forest, open field, roadside or other unenclosed land to which other persons have a right of access for the purpose of keeping or grazing their animals, any animal which he knows to be infective, shall be punishable with fine which may extend, in the case of a first conviction, to one hundred rupees, and in the case of a second or subsequent conviction, to two hundred rupees.

Penalty
for
bringing
infective
animals
to the
market.

24. Whoever brings, or attempts to bring, into any market, fair, exhibition or other concentration of animals, any animal, which he knows to be affected with a Scheduled disease, shall be punishable, in the case of a first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both, and, in the case of a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty
for plac-
ing car-
cass of
infective
animal in
river,
canal
etc.

25. Whoever places, or causes or permits to be placed, in any river, canal or other water, or in the sea within ten miles of the shore, the carcass or part of the carcass of any animal which at the time of its death was infective or which has been destroyed as being infective or suspected of being infective, shall be punishable, in the case of a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both, and, in the case of a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty
for disin-
terring
carcass
of diseas-
ed animal.

26. Whoever, without lawful authority, disinters or causes to be disinterred the carcass or part of the carcass of any animal which at the time of its death was infective or which has been destroyed as being infective or suspected of being infective, shall be punishable, in the case of a first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both, and, in the case of a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty
for mali-
cious and
vexatious
entry or
seizure by

27. (1) Whoever, being a Veterinary Surgeon or an Inspector, maliciously and vexatiously enters or inspects any land, building, vessel, vehicle or other place or seizes or detains any animal, shall be punishable with imprisonment for a term which may extend

to six months, or with fine which may extend to five hundred rupees, or with both.

Veterinary Surgeon or Inspector.

(2) No prosecution under this section shall be instituted after the expiry of three months from the date on which the alleged offence was committed.

5 of 1898. 28. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any police officer not below the rank of Sub-Inspector, if requested in writing by the Veterinary Surgeon, may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in an offence against any of the provisions of this Act relating to infected areas or places or infected animals.

Arrest without order or warrant.

29. No prosecution under this Act shall be instituted except by or under the authority of the Veterinary Surgeon.

Institution of proceedings.

30. No Magistrate inferior to a Magistrate of the second class shall try any offence under this Act.

Jurisdiction of Magistrates

31. No person shall be entitled to any compensation in respect of the destruction of any animal or thing or of any other loss, injury, detriment or inconvenience caused to him by reason of anything done under this Act in good faith, except as provided for under section 12.

Bar of claims to compensation.

32. (1) The Government may make rules to carry out the purposes of this Act.

Power of Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely:—

(a) the manner of examination of animals under section 10;

(b) the determination of the compensation payable under section 12;

(c) the exercise of powers of the Veterinary Surgeon and Inspector under section 13;

(d) the form of the licences to be granted by an Inspector under section 18 and the circumstances under which they may be granted;

(e) the cleansing, disinfesting and disinfection of vessels or vehicles used by common carriers, the cleansing and disinfection of buildings, yards and other places used for animals and the destruction of infected matter or things found therein or near thereto;

(f) the manner in which animals shall be destroyed, and the manner in which any carcass or parts of carcass, fodder, bedding or other things seized shall be disposed of;

(g) the test to be applied with respect to animals suspected of being infective;

(h) the duties to be discharged and the functions to be performed by an Inspector;

(i) any other matter which has to be, or may be, prescribed.

(3) In making a rule under this section, the Government may provide that a breach of it shall be punishable with fine which may extend, in the case of a first conviction, to one hundred rupees, and, in the case of a second or subsequent conviction, to two hundred rupees.

Amendment of the Schedule.

33. (1) The Government may, by notification in the Gazette, include in the Schedule any disease affecting animals which, in their opinion, it is necessary or expedient so to include, and thereupon all the provisions of this Act shall apply to that disease also.

(2) The Government may, by like notification, omit any disease from the Schedule and on the publication of such notification, such disease shall cease to be a Scheduled disease.

Rules and notifications issued under section 33 to be laid before the Legislative Assembly.

34. Every rule made under this Act and every notification issued under section 33 shall be laid as soon as possible after it is made or issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule or notification should be either modified or annulled, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule or notification.

35. No suit, prosecution or other legal proceedings shall lie against the Government or any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of action taken in good faith.

Madras Act II of 1866.

Madras Act XIX of 1940, 37 of 1956.

Travancore Act XI of 1094.

Travancore Act V of 1091.

Cochin Act II of 1093.

Cochin Act VI of 1093.

36. The Madras Cattle-disease Act, 1866 and the Madras Rinderpest Act, 1940, as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 and the Travancore Animals Diseases Act of 1094, the Glanders and Farcy Act of 1091, the Cochin Cattle Diseases Prevention Act, 1093 and the Glanders and Farcy Act, 1093 are hereby repealed.

Repeal.

THE SCHEDULE

[See section 2(k)]

1. Rinderpest or Cattle Plague.
2. Foot and Mouth Disease.
3. Haemorrhagic Septicaemia.
4. Blackquarter.
5. Anthrax.
6. Tuberculosis.
7. John's Disease.
8. Glanders and Farcy.
9. Epizootic Lymphangitis.
10. Dourine.
11. Rabies.
12. Surra.
13. Strangles.

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14. Contagious Caprine Pleuro-Pneumonia.
 15. Brucellosis.
 16. Contagious Bovine Pleuro-Pneumonia.
 17. Swine Fever.
 18. Ranikhet Disease.
 19. Salmonellosis.
 20. South African Horse Sickness.

S. RADHAKRISHNAN,
President.

S. P. SEN-VARMA,
Secy. to the Govt. of India.

Reasons for the enactment

The laws relating to the prevention and control of diseases affecting animals, in force in the Travancore, Cochin and Malabar areas of the State of Kerala are—

(i) the Travancore Animals Diseases Act of 1094 (Travancore Act XI of 1094);

(ii) the Glanders and Farcy Act of 1091 (Travancore Act V of 1091);

(iii) the Cochin Cattle Diseases Prevention Act, 1093 (Cochin Act II of 1093);

(iv) the Glanders and Farcy Act of 1093 (Cochin Act VI of 1093);

(v) the Madras Cattle-disease Act, 1866 (Madras Act II of 1866); and

(vi) the Madras Rinderpest Act, 1940 (Madras Act XIX of 1940).

It is considered necessary to enact a uniform law on the subject applicable throughout the State of Kerala.

2. The present enactment is intended for the above purpose.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), has approved the enactment of this measure as a President's Act.

B. SIVARAMAN,
Secy. to the Govt. of India,
Ministry of Food and Agriculture,
(Department of Agriculture).

ERRATUM

In The Punjab Reorganisation Act, 1966 (No. 31 of 1966) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 18th September, 1966 at page 388, Section 69, sub-section (6) for the words "State of Haryana or Punjab from constituting, at any time" appearing after (6) Nothing in the preceding provisions of this section *read* "shall be construed as preventing the Government of the".